

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1655V

UNPUBLISHED

JANICE BYRD,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 27, 2021

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

David John Carney, Green & Schafle LLC, Philadelphia, PA, for petitioner.

Lauren Kells, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On October 25, 2019, Janice Byrd filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered the “table injury” of Guillain-Barre Syndrome (“GBS”) as a result of her October 27, 2016 influneza (“flu”) vaccination. Petition at ¶¶ 1, 12. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 25, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On May 24, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$198,748.71 (\$180,000.00 for pain and suffering; and \$18,748.71 for unreimbursed expenses). Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$198,748.71 (\$180,000.00 for pain and suffering and \$18,748.71 for unreimbursed expenses) in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

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No. 19-1655V

Chief Special Master Corcoran

ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 25, 2019, Janice Byrd (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered Guillain-Barré syndrome (“GBS”), as defined in the Vaccine Injury Table, following administration of an influenza vaccine she received on October 27, 2016. Petition at ¶ 1. On January 22, 2021, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act for a GBS Table injury, and on January 25, 2021, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF Nos. 32, 33.

I. Items of Compensation

Based upon the evidence, respondent proffers that petitioner should be awarded a lump sum of \$198,748.71 (\$180,000.00 for pain and suffering; and \$18,748.71 for unreimbursed expenses). This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Respondent recommends that compensation be awarded to petitioner in the amount of \$198,748.71, in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

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/s/ Lauren Kells
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DATED: May 24, 2021